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Regulatory
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Proposed Regulation Agency Background Document

Agency name	Board of Accountancy
Virginia Administrative Code (VAC) citation	18 VAC 5 -21
Regulation title	Board of Accountancy Regulations
Action title	Changes incorporating amendments about (i) the qualifications for, and implementation of, the current computerized CPA exam, and (ii) the requirements for Ethics CPE.
Document preparation date	June 4, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

In accordance with Section 2.2-4013 (A) of the Administrative Process Act (APA) and Executive Order 21 (2002), the Board of Accountancy is proposing amendments to its regulations that include two changes: (1) the qualifications for, and implementation of, the current computerized CPA exam, and (2) the requirements for Ethics CPE. These amendments are also being filed in accordance with Section 2.2-4011 (A) of the APA because they must be promulgated within one year of the effective date of the emergency regulations, which was December 15, 2003.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Board has legal authority to promulgate the proposed amendments to its regulations through (i) Sections 2.2-4011 (A) and 2.2-4013 (A) of the APA, (ii) Chapter 44 of Title 54.1 of the *Code of Virginia*, (iii) Chapter 291 of the 2003 Acts of the General Assembly, and (iv) Executive Order 21 (2002). At its meeting on May 6, 2004, the Board of Accountancy unanimously approved filing these amendments as proposed regulations. Further, the Office of the Attorney General provided the Board with a memorandum dated June 4, 2004, stating that the Board has the authority to promulgate these regulations.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

To fulfill its statutory mandate, the Board seeks to propose amendments to its existing regulations to revise and clarify the following sections: (i) qualifications for licensure including new language about the current computer-based CPA exam; and (ii) continuing professional education (CPE) requirements for initial applicants and regulants in ethics. Such amendments are being proposed to replace the emergency regulations.

The proposed regulations are essential to protect the health, safety and welfare of the citizens of the Commonwealth because the Board is mandated by statute to certify and issue CPA certificates to persons to practice public accountancy, and restrict the practice of public accountancy to only those persons who are so certified and may call themselves CPAs. Further, the Board can take such actions as may be authorized to ensure the continued competence of such licensed CPAs and to aid the public in determining the qualifications of such persons who give assurances on financial statements. The Board has the responsibility to enforce and implement such actions through the promulgation of regulations.

Finally, this action should not be construed as preventing any person from stating that he has prepared, compiled, assembled or drafted a financial statement, provided he does not use any additional language that comprises an assurance, make any claims or representations, or use any of the language prohibited by this statute.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

(1) The new computerized CPA exam.

The only provisions of the current regulations that will be changed are: (1) 18 VAC 5-21-10, to add new definitions about the computerized CPA exam for clarity; (2) 18 VAC 5-21-20, to revise name of "Initial examination application fee" to "Initial CPA exam application fee," and to clarify that this fee shall not exceed \$1,000; and (3) 18 VAC 5-21-30, to add new language about the computerized CPA exam. In addition, "CPA exam" is to be substituted for "examination," only where necessary in the text for clarification.

(2) The new requirement for Ethics CPE.

The only provisions of the current regulations that will be changed are: (1) 18 VAC 5-21-10, to add new definitions about CPE for clarity; (2) 18 VAC 5-21-40, to revise current licensing requirements to call for the applicant who applies for licensure three or more years after successfully completing the CPA exam to complete the most recent Ethics CPE course; and (3) 18 VAC 5-21-170, to add new language about the constitution of the new Ethics CPE course, and to insert the revised dates for the beginning of the CPE reporting cycles for CPAs who practice public accountancy for an employer and not for the public, or who serve as an educator in the field of accounting.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

(1) The new computerized CPA exam.

The Board finds that new regulations regarding the Uniform CPA exam are required since the computer-based CPA exam was implemented in April 2004. Not making these changes will create a negative impact on both the "Big Four" CPA firms and the small- and medium-sized CPA firms in Virginia that will result from approximately 1,200 new CPAs being prevented from entering the labor market. Each year, this many potential employees enter the labor market in Virginia as a result of passing the Uniform CPA exam. This in turn will affect the competent practice of public accounting in Virginia that directly impacts the public—both businesses and individuals.

This situation will occur because in April 2004 the American Institute of Certified Public Accountants (AICPA) ended its paper-and-pencil CPA exam and replaced it nationwide with a computerized CPA exam. This means that the Board's provisions for exam requirements that are specifically meant for the

paper-and-pencil CPA exam will not be applicable to the current computerized CPA exam, should the changes put into place by emergency regulation not be promulgated.

In 2002, Virginia had a total of 4,470 candidates take the CPA exam; in 2003, well over 5,000 took the CPA exam in the Commonwealth. Should the Board's proposed changes about the conduct of the CPA exam fail to be promulgated as proposed regulations, approximately 4,000 candidates will not be allowed to take the exam in Virginia annually. Further, Virginia is one of the last states to implement the 150-year education requirement. Therefore, the majority of these exam candidates in Virginia will not qualify to take the CPA exam in most other states.

(2) The new requirement for Ethics CPE.

With thousands of audits being properly and competently performed each year by CPAs committed to rigorously following the letter, and the spirit, of the profession's accounting and auditing standards and standards of conduct, the Board is extremely concerned about the implications of the well-publicized instances of alleged fraudulent accounting and financial reporting, and the apparent failure of audit firms to prevent this fraudulent accounting or financial reporting.

In the fall of 2002, the Board entered into an Executive Agreement with the Governor to implement regulations about continuing professional education (CPE) in ethics. The Board is currently meeting the Governor's priority by requiring initial applicants and regulants to obtain two CPE credits in ethics each year. This requirement was implemented by emergency regulation that became effective on December 15, 2003, as a result of Chapter 291 of the 2003 Acts of the General Assembly.

The proposed regulatory action poses no disadvantages to the public or the Commonwealth.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	There will be no additional costs associated with the implementation of these regulations.
Projected cost of the regulation on localities	There will be no additional costs associated with the implementation of these regulations.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Those affected will be Certified Public Accountants (CPAs), CPA firms, and candidates for the CPA exam.
Agency's best estimate of the number of such entities that will be affected	Currently, there are approximately 16,606 CPAs and 1,463 CPA firms licensed with the Board of Accountancy. There are approximately 4,000 candidates for the CPA exam annually.
Projected cost of the regulation for affected individuals, businesses, or other entities	The CPA exam will not cost more than \$1,000. The cost for the Ethics CPE course may vary, but should generally run about \$50 per CPA.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Regulations governing the practice of CPAs in the Commonwealth are intended to qualify persons to work in a profession that requires specific knowledge and skills as well as experience in a number of very complex areas. These proposed regulations have been developed to implement those changes necessary to put in place regulations about the computerized CPA exam and the Ethics CPE requirement, and replace the current emergency regulations. The only other changes made are those that are necessary to clarify the examination requirements and licensing requirements related to these two changes. Every effort has been made to implement only those changes deemed necessary and every effort has been made to minimize its impact on the public.

In every case, the Board of Accountancy considered whether there was a less burdensome alternative. Alternatives that failed to meet this consideration were rejected. Throughout the process of preparing these proposed regulations, the Board considered the costs of each provision in achieving its essential purpose and statutory mandate, as well as input from the public.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
	No comments were received during the public comment period following the publication of the NOIRA.	

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The amendments proposed by the Board of Accountancy will not have an impact on the institution of the family and family stability. The proposed amendments will not strengthen nor erode the authority and rights of parents in the education, nurturing, and supervision of their children. They will not encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse and one's children and/or elderly parents. These amendments will not strengthen or erode the marital commitment. The effect of amendments on disposable family income will be minimal.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 5-21-10		The current section lists the definitions of the terms used in this chapter.	<p>Amendment: New definitions have been added, while other definitions have been either rewritten for clarity or deleted, that directly relate to the computerized CPA exam and the CPE in ethics.</p> <p>Consequences: The reader of the regulations will have a better understanding and require less clarification about the CPA exam and CPE.</p> <p>Essential Nature: Clarified definitions are required for an accurate understanding of the words relating to the CPA exam and Ethics CPE that are used in the regulatory text.</p> <p>Issues: None</p>
18 VAC 5-21-20		The current section lists all fees for the Board.	<p>Amendment: In this section, the first change is from “Initial examination application fee” to “Initial CPA exam application fee.” The second change is to clarify that this CPA exam fee is assessed at the time of the initial examination, not for reexamination, and that it “shall not exceed \$1,000.”</p> <p>Consequences: Unless enacted, the fee established for the initial application for the CPA exam will not be clarified for candidates preparing to take the exam, which will create unnecessary confusion about the process.</p> <p>Essential Nature: Current regulations provide for a \$25 initial CPA exam fee to cover the costs of work performed by the Board members and staff. It is important that exam candidates understand that the total exam fee, which is assessed by the exam vendor, shall not exceed \$1000, and that this fee contains an initial exam fee of</p>

			<p>\$25 to pay for the work performed by the Board.</p> <p>Issues: None.</p>
18 VAC 5-21-30		<p>The current section lists the entry requirements for the CPA certificate and firm permit and for CPA supervising services involving the practice of public accounting.</p>	<p>Amendments: Subsection C contains new language clarifying the requirements of a candidate to sit for the exam, and the granting of conditional credit for the old “non-computer-based CPA exam,” and the current “computer-based CPA exam.”</p> <p>Consequences: The “non-computer-based CPA exam” was replaced by a “computer-based CPA exam” in April 2004. By not providing language to clarify the requirements to sit for the CPA exam and the granting of conditional credit, impediments would be created for candidates seeking to sit for the exam during and after the transition period.</p> <p>Essential Nature: The new language about the “computer-based CPA exam,” including the transition to this exam, is essential since the computer-based exam became the only one available beginning in April 2004. This is also essential to ensure that CPA exam candidates will meet the appropriate requirements prior to taking the CPA exam and being certified by the Board in Virginia.</p> <p>Issues: None.</p>
18 VAC 5-21-40		<p>The current section lists the requirements for issuing an original CPA certificate, and a CPA certificate by endorsement and by substantial equivalency.</p>	<p>Amendments: Subsection B contains new language requiring an original applicant who successfully completed the CPA exam three or more years before he applies for licensure to complete the “most recent Ethics CPE course.” According to statutory mandate, the only other alteration is changing “examination” to “CPA exam.”</p> <p>Consequences: The new requirements for an original applicant for licensure to provide evidence of having obtained Ethics CPE credits, if three or more years have passed beyond the year of successfully completing the CPA exam, ensures that the applicant meets the Board’s competency requirements to be issued a CPA certificate, and meets the Board’s statutory mandate to ensure the integrity of the profession.</p> <p>Essential Nature: Clarification of the Board’s requirements to issue an original CPA certificate is essential because it enables the applicants and the public to know the Board’s specific requirements. The new CPE requirements for an applicant who postpones his application for a CPA certificate after passing the CPA exam also ensures that the applicant is competent</p>

			<p>before he practices public accounting for the public. These changes are essential since they meet statutory changes, and comply with the Governor’s priority in the Executive Agreement signed with the Board. Issues: None.</p>
<p>18 VAC 5-21-170</p>		<p>The current section identifies the CPE requirements for CPA certificate applicants and for CPA certificate holders.</p>	<p>Amendments: This section on CPE requirements was revised so that CPA certificate applicants and certificate holders must complete the new Ethics CPE course. Such revisions also include language changes from “hours” to “CPE credits” for clarity. In subdivision B 1 the commencement date of each three-year CPE reporting period was changed due to statutory mandate to reflect that each period began on January 1st, not July 1st. New subsection D specifies the Ethics CPE course that will consist of one “self-contained course” about the standards of conduct, Code of Virginia statutes relating to public accountancy, and Board’s regulations that must be obtained each year. Each CPA to which the CPE requirements apply, who practice public accountancy either for the public, or for an employer and not for the public, or who serve as an educator in the field of accounting, must meet this requirement. Consequences: These modifications are essential to clarify the Ethics CPE requirements for CPA certificate applicants to be able to meet the Board’s requirements before offering public accounting services, and for CPA certificate holders to continue maintaining and increasing their professional competence. The clarifications made to the Board’s commencement date for the three-year reporting cycles identified are mandatory due to statute. Regulators are now required by statute to earn Ethics CPE, which is identified as one “self-contained course” about the standards of conduct, Code of Virginia statutes relating to public accountancy, and Board’s regulations that must be obtained each year “immediately subsequent to the year in which these regulations become effective.” Essential Nature: With recent instances of alleged fraudulent accounting and financial reporting by certain large companies and the apparent failure of the audit firm to prevent such occurrences, the Board entered into an Executive Agreement with the Governor to modify the CPE requirements for CPA certificate applicants</p>

			<p>and certificate holders. These Ethics CPE requirements are being added to the Board's regulations due to statutory mandate. By making these modifications, the Board will help ensure that a regulant who provides public accounting services for the public, or for an employer or other organization, and not for the public, or as an educator in the field of accounting will meet the Board's requirements for continuing professional education and will maintain and increase his professional competence. . The other change regarding the beginning dates of the three-year CPE reporting cycles represent statutory mandates, so there is no discretion.</p> <p>Issues: None.</p>
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